



General Assembly

January Session, 2011

Raised Bill No. 6491

LCO No. 4039

04039_____JUD

Referred to Committee on Judiciary

Introduced by:
(JUD)

AN ACT CONCERNING ERASURE OF POLICE RECORDS UPON THE EXPIRATION OF THE APPLICABLE STATUTE OF LIMITATIONS AND SERVICE OF PROCESS ON CERTAIN POLICE OFFICERS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 54-142a of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2011*):

3 (a) Whenever in any criminal case, on or after October 1, 1969, the
4 accused, by a final judgment, is found not guilty of the charge or the
5 charge is dismissed, all police and court records and records of any
6 state's attorney pertaining to such charge shall be erased upon the
7 expiration of the time to file a writ of error or take an appeal, if an
8 appeal is not taken, or upon final determination of the appeal
9 sustaining a finding of not guilty or a dismissal, if an appeal is taken.
10 Nothing in this subsection shall require the erasure of any record
11 pertaining to a charge for which the defendant was found not guilty by
12 reason of mental disease or defect or guilty but not criminally
13 responsible by reason of mental disease or defect.

14 (b) Whenever in any criminal case prior to October 1, 1969, the

15 accused, by a final judgment, was found not guilty of the charge or the
16 charge was dismissed, all police and court records and records of the
17 state's or prosecuting attorney or the prosecuting grand juror
18 pertaining to such charge shall be erased by operation of law and the
19 clerk or any person charged with the retention and control of such
20 records shall not disclose to anyone their existence or any information
21 pertaining to any charge so erased; provided nothing in this subsection
22 shall prohibit the arrested person or any one of his heirs from filing a
23 petition for erasure with the court granting such not guilty judgment
24 or dismissal, or, where the matter had been before a municipal court, a
25 trial justice, the Circuit Court or the Court of Common Pleas with the
26 records center of the Judicial Department and thereupon all police and
27 court records and records of the state's attorney, prosecuting attorney
28 or prosecuting grand juror pertaining to such charge shall be erased.
29 Nothing in this subsection shall require the erasure of any record
30 pertaining to a charge for which the defendant was found not guilty by
31 reason of mental disease or defect.

32 (c) (1) Whenever any charge in a criminal case has been nolle in the
33 Superior Court, or in the Court of Common Pleas, if at least thirteen
34 months have elapsed since such nolle, all police and court records and
35 records of the state's or prosecuting attorney or the prosecuting grand
36 juror pertaining to such charge shall be erased, except that in cases of
37 nolles entered in the Superior Court, Court of Common Pleas, Circuit
38 Court, municipal court or by a justice of the peace prior to April 1,
39 1972, such records shall be deemed erased by operation of law and the
40 clerk or the person charged with the retention and control of such
41 records shall not disclose to anyone their existence or any information
42 pertaining to any charge so erased, provided nothing in this subsection
43 shall prohibit the arrested person or any one of his heirs from filing a
44 petition to the court or to the records center of the Judicial Department,
45 as the case may be, to have such records erased, in which case such
46 records shall be erased.

47 (2) Whenever any charge in a criminal case has been continued at

48 the request of the prosecuting attorney, and a period of thirteen
49 months has elapsed since the granting of such continuance during
50 which period there has been no prosecution or other disposition of the
51 matter, the charge shall be construed to have been nolle as of the date
52 of termination of such thirteen-month period and such erasure may
53 thereafter be effected or a petition filed therefor, as the case may be, as
54 provided in this subsection for nolle cases.

55 (d) (1) Whenever prior to October 1, 1974, any person who has been
56 convicted of an offense in any court of this state has received an
57 absolute pardon for such offense, such person or any one of his heirs
58 may, at any time subsequent to such pardon, file a petition with the
59 superior court at the location in which such conviction was effected, or
60 with the superior court at the location having custody of the records of
61 such conviction or with the records center of the Judicial Department if
62 such conviction was in the Court of Common Pleas, Circuit Court,
63 municipal court or by a trial justice court, for an order of erasure, and
64 the Superior Court or records center of the Judicial Department shall
65 direct all police and court records and records of the state's or
66 prosecuting attorney pertaining to such case to be erased.

67 (2) Whenever such absolute pardon was received on or after
68 October 1, 1974, such records shall be erased.

69 (e) (1) The clerk of the court or any person charged with retention
70 and control of such records in the records center of the Judicial
71 Department or any law enforcement agency having information
72 contained in such erased records shall not disclose to anyone, except
73 the subject of the record, upon submission pursuant to guidelines
74 prescribed by the Office of the Chief Court Administrator of
75 satisfactory proof of the subject's identity, information pertaining to
76 any charge erased under any provision of this section and such clerk or
77 person charged with the retention and control of such records shall
78 forward a notice of such erasure to any law enforcement agency to
79 which he knows information concerning the arrest has been

80 disseminated and such disseminated information shall be erased from
81 the records of such law enforcement agency. Such clerk or such person,
82 as the case may be, shall provide adequate security measures to
83 safeguard against unauthorized access to or dissemination of such
84 records or upon the request of the accused cause the actual physical
85 destruction of such records, except that such clerk or such person shall
86 not cause the actual physical destruction of such records until three
87 years have elapsed from the date of the final disposition of the criminal
88 case to which such records pertain.

89 (2) No fee shall be charged in any court with respect to any petition
90 under this section.

91 (3) Any person who shall have been the subject of such an erasure
92 shall be deemed to have never been arrested within the meaning of the
93 general statutes with respect to the proceedings so erased and may so
94 swear under oath.

95 (f) Upon motion properly brought, the court or a judge thereof, if
96 such court is not in session, may order disclosure of such records (1) to
97 a defendant in an action for false arrest arising out of the proceedings
98 so erased, or (2) to the prosecuting attorney and defense counsel in
99 connection with any perjury charges which the prosecutor alleges may
100 have arisen from the testimony elicited during the trial. Such
101 disclosure of such records is subject also to any records destruction
102 program pursuant to which the records may have been destroyed. The
103 jury charge in connection with erased offenses may be ordered by the
104 judge for use by the judiciary, provided the names of the accused and
105 the witnesses are omitted therefrom.

106 (g) The provisions of this section shall not apply to any police or
107 court records or the records of any state's attorney or prosecuting
108 attorney with respect to any information or indictment containing
109 more than one count (1) while the criminal case is pending, or (2) when
110 the criminal case is disposed of unless and until all counts are entitled
111 to erasure in accordance with the provisions of this section, except that

112 when the criminal case is disposed of, electronic records or portions of
113 electronic records released to the public that reference a charge that
114 would otherwise be entitled to erasure under this section shall be
115 erased in accordance with the provisions of this section. Nothing in
116 this section shall require the erasure of any information contained in
117 the registry of protective orders established pursuant to section 51-5c.
118 For the purposes of this subsection, "electronic record" means any
119 police or court record or the record of any state's attorney or
120 prosecuting attorney that is an electronic record, as defined in section
121 1-267, or a computer printout.

122 (h) Whenever in any criminal investigation of an offense an
123 individual who is the subject of the investigation is not charged with
124 the offense, all police records pertaining to such investigation which
125 have not been previously erased shall be erased upon the expiration of
126 time within which such individual may be prosecuted pursuant to
127 chapter 966. Nothing in this subsection shall prevent the erasure of
128 police records, prior to such expiration of time, pursuant to section 1-
129 216 or any other provision of law.

130 ~~[(h)]~~ (i) For the purposes of this section, "court records" shall not
131 include a record or transcript of the proceedings made or prepared by
132 an official court reporter, assistant court reporter or monitor.

133 Sec. 2. Section 52-57 of the general statutes is repealed and the
134 following is substituted in lieu thereof (*Effective October 1, 2011*):

135 (a) Except as otherwise provided, process in any civil action shall be
136 served by leaving a true and attested copy of it, including the
137 declaration or complaint, with the defendant, or at his usual place of
138 abode, in this state.

139 (b) Process in civil actions against the following-described classes of
140 defendants shall be served as follows: (1) Against a town, upon its
141 clerk, assistant clerk, manager or one of its selectmen; (2) against a city,
142 upon its clerk or assistant clerk or upon its mayor or manager; (3)

143 against a borough, upon its manager, clerk or assistant clerk or upon
144 the warden or one of its burgesses; (4) against a school district, upon
145 its clerk or one of its committee; (5) against a board, commission,
146 department or agency of a town, city or borough, notwithstanding any
147 provision of law, upon the clerk of the town, city or borough, provided
148 two copies of such process shall be served upon the clerk and the clerk
149 shall retain one copy and forward the second copy to the board,
150 commission, department or agency; (6) against any other municipal or
151 quasi-municipal corporation, upon its clerk or upon its chief presiding
152 officer or managing agent; and (7) against an employee of a town, city
153 or borough in a cause of action arising from the employee's duties or
154 employment, upon the clerk of the town, city or borough, provided
155 two copies of such process shall be served upon the clerk and the clerk
156 shall retain one copy and forward the second copy to the employee.

157 (c) In actions against a private corporation, service of process shall
158 be made either upon the president, the vice president, an assistant vice
159 president, the secretary, the assistant secretary, the treasurer, the
160 assistant treasurer, the cashier, the assistant cashier, the teller or the
161 assistant teller or its general or managing agent or manager or upon
162 any director resident in this state, or the person in charge of the
163 business of the corporation or upon any person who is at the time of
164 service in charge of the office of the corporation in the town in which
165 its principal office or place of business is located. In actions against a
166 private corporation established under the laws of any other state, any
167 foreign country or the United States, service of process may be made
168 upon any of the aforesaid officers or agents, or upon the agent of the
169 corporation appointed pursuant to section 33-922.

170 (d) In actions against a partnership, service of process may be made
171 by personally serving any process within the state upon any one of the
172 partners or, if none of the partners are residents of the state, service
173 may be made upon the Secretary of the State; provided, prior to the
174 return date, the officer serving the writ shall mail a copy of the writ
175 and the complaint by registered or certified mail, return receipt

176 requested, to the last-known address of every partner named in the
177 writ not personally served. A statement of such mailing and receipt
178 therefor shall be included in the officer's return.

179 (e) In actions against a voluntary association, service of process may
180 be made upon the presiding officer, secretary or treasurer. If all of such
181 officers are not residents of the state and the voluntary association is
182 doing business, acting or carrying out its operations or its functions
183 within the state, the voluntary association shall be deemed to have
184 appointed the Secretary of the State as its attorney and to have agreed
185 that any process in any civil action brought against it may be served
186 upon the Secretary of the State and that the process shall have the
187 same validity as if served personally upon the presiding officer,
188 secretary or treasurer of the voluntary association. The process shall be
189 served by any officer to whom the process is directed upon the
190 Secretary of the State by leaving with, or at the office of, the Secretary
191 of the State, at least twelve days before the return day of the process, a
192 true and attested copy thereof, and by sending to the defendant at its
193 last-known address by registered or certified mail, postage prepaid, a
194 like true and attested copy with an endorsement thereon of the service
195 upon the Secretary of the State. The officer serving the process upon
196 the Secretary of the State shall leave with the Secretary of the State, at
197 the time of service, a fee of twenty-five dollars, which fee shall be taxed
198 in favor of the plaintiff in [his] the plaintiff's costs if [he] the plaintiff
199 prevails in the action. The Secretary of the State shall keep a record of
200 each such process and the day and hour of service.

201 (f) When the other methods of service of process provided under
202 this section or otherwise provided by law cannot be effected, in actions
203 concerning the establishment, enforcement or modification of child
204 support orders other than actions for dissolution of marriage,
205 including, but not limited to, such actions under sections 17b-122, 17b-
206 124 to 17b-132, inclusive, 17b-136 to 17b-138, inclusive, 17b-194 to 17b-
207 197, inclusive, 17b-222 to 17b-250, inclusive, 17b-256, 17b-263, 17b-340
208 to 17b-350, inclusive, 17b-689b, 17b-743 to 17b-747, inclusive, and 46b-

209 212 to 46b-213v, inclusive, and chapters 815, 815p, 815t, 815y and 816,
210 and actions to implement garnishments for support under section 52-
211 362, service of process may be made upon a party to the action by one
212 of the following methods, provided proof of receipt of such process by
213 such party is presented to the court in accordance with rules
214 promulgated by the judges of the Superior Court:

215 (1) By certified mail to a party to the action addressed to the
216 employer of such party. Any service of process so sent shall include on
217 the outside envelope the words "To be delivered to the employee in
218 accordance with subsection (f) of section 52-57". The employer shall
219 accept any such service of process sent by certified mail and promptly
220 deliver such certified mail to the employee; or

221 (2) When a party to an action under this subsection is employed by
222 an employer with fifteen or more employees, by personal service upon
223 an official of the employer designated as an agent to accept service of
224 process in actions brought under this subsection. Every employer with
225 fifteen or more employees doing business in this state shall designate
226 an official to accept service of process for employees who are parties to
227 such actions. The person so served shall promptly deliver such process
228 to the employee.

229 (g) When the other methods of service of process provided under
230 this section or otherwise provided by law cannot be effected, in actions
231 against a person, in such person's individual capacity, who is a
232 member of an organized local police department or a member of the
233 Division of State Police within the Department of Public Safety, service
234 of process may be made upon the chief of police or the Commissioner
235 of Public Safety, as the case may be, or any person designated by the
236 chief of police or commissioner at the appropriate police station, who
237 shall act as the agent of the member named in the process. Service
238 upon such agent shall be deemed to be service upon the member. Two
239 copies of such process shall be served upon such agent who shall
240 retain one copy and forward one copy to the member named in the

241 process.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2011	54-142a
Sec. 2	October 1, 2011	52-57

Statement of Purpose:

To: (1) Ensure that police records of criminal investigations be erased upon the expiration of any statute of limitations within which the applicable crime may be prosecuted, and (2) clarify the manner for serving process on police officers in their individual capacities as defendants in civil actions when their usual place of abode is not discoverable, similar to the manner for summoning police officers as witnesses.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]